

# WIPO



CRNR/DC/48  
ORIGINAL: English  
DATE: December 11, 1996

WORLD INTELLECTUAL PROPERTY ORGANIZATION  
GENEVA

**DIPLOMATIC CONFERENCE  
ON  
CERTAIN COPYRIGHT AND NEIGHBORING RIGHTS QUESTIONS**

**Geneva, December 2 to 20, 1996**

AMENDMENT TO ARTICLES 1, 12, 19 AND 23 OF DRAFT TREATY N° 2

*proposed by the Delegation of the United States of America*

[Deletions are indicated by ~~striking through~~]

*Article 1 -- Relation to Other Conventions*

Amend paragraph (2) as follows:

(2) Nothing in this Treaty shall derogate from existing obligations that Contracting Parties may have to each other ~~under treaties for the protection of literary and artistic works, and in particular, nothing in this Treaty shall in any way prejudice the rights granted to authors~~ under the Berne Convention for the Protection of Literary and Artistic Works.

*Article 12 -- Right to Remuneration for Broadcasting and Communication to the Public*

Delete paragraph (4) and replace it with the following three paragraphs:

(4) Notwithstanding paragraphs (1) - (3) of this Article, performers shall enjoy, with respect to their musical performances fixed in phonograms, the exclusive right of authorizing the broadcasting or communication to the public of their performances by digital means by subscription and against payment of a fee for the reception of the broadcast or communication.

(5) Contracting Parties may limit the right established in paragraph (4) to a right of remuneration with respect to broadcasts and communications where the structure and sequence of programming ensures that such broadcasts and communications do not prejudice the performers' right of distribution under Article 9, or their right of making their musical performances fixed in phonograms available to the public under Article 11.

(6) Contracting Parties may in special cases adopt limited exceptions to the right established in paragraph (4), where such exceptions do not materially impair primary economic uses or the value of the phonograms in which the performers' performances are fixed.

*Article 19 -- Right to Remuneration for Broadcasting and Communication to the Public*

Delete paragraph (4) and replace it with the following three paragraphs:

(4) Notwithstanding paragraphs (1) - (3) of this article, producers of phonograms shall enjoy the exclusive right of authorizing the broadcasting or communication to the public of their phonograms by digital means by subscription and against payment of a fee for the reception of the broadcast or communication.

(5) Contracting Parties may limit the right established in paragraph (4) to a right of remuneration with respect to broadcasts and communications where the structure and sequence of programming ensures that such broadcasts and communications do not prejudice the producers' right of distribution under Article 16, or their right of making their phonograms available to the public under Article 18.

(6) Contracting parties may in special cases adopt limited exceptions to the right established in paragraph (4), where such exceptions do not materially impair primary economic uses or the value of the phonograms.

[Additions are indicated by underlining, deletions are indicated by ~~striking through~~]

*Article 23 -- Obligations concerning Rights Management Information*

Amend Article 23 as follows:

(1) Contracting Parties shall ~~make it unlawful for~~ provide adequate and effective legal remedies against any person knowingly to perform performing any of the following acts which induces, enables or facilitates infringement or the avoidance of payment to a right holder:

(i) to remove or alter any ~~electronic~~ rights management information without authority;

(ii) to distribute, import for distribution or communicate to the public, without authority, copies of fixed performances or phonograms ~~from which~~ knowing that electronic rights management information has been removed from the copies or altered without authority;

(iii) to file fraudulent rights management information with a public authority.

(2) As used in this Article, “rights management information” means information which identifies the performer, the performance of the performer, the producer of the phonogram, the phonogram, and the owner of any right in the performance or phonogram or information about the terms and conditions of use of the fixed performance or phonograms, and any numbers or codes that represent such information, when any of these items of information are attached to a copy of a fixed performance or phonogram or appear in connection with the communication of a fixed performance or a phonogram to the public.

(3) Contracting Parties shall not mandate the use of rights management information by a right holder.

[End of document]